

time to comply, but instead the Agency has opted for delays. I would also note that EPA is currently violating the Clean Air Act's schedule for air toxics controls for many other sources, sending millions more pounds of dangerous emissions into the air we breathe.

Mr. President, industry information shows that the technology exists today to reduce utility mercury emissions by 90 percent or more—down to about 5 tons per year. Under MACT, the EPA should set its standard to match the capability of the best utility performers.

Not coincidentally, a 90 percent cut in utility mercury emissions is guaranteed in my bill, the Clean Power Act of 2003.

However, the current Bush administration has proposed to derail EPA's mercury standard—in essence, to violate the intent of the Clean Air Act.

This administration's multi-pollutant plan, called Clear Skies, does away with the Clean Air Act's technology standard for mercury. In its place, Clear Skies calls for weaker standards and a 10-year delay in their achievement.

Plus, EPA is prevented from using its existing authority to require further reductions if residual risk from utility air toxics remains a problem.

Could it be that the administration is more interested in giving polluters a free ride than in protecting public health?

This harmful bias towards irresponsible industry is something we saw 50 years ago in Minamata Bay—and we should have learned a lesson about its ill effects.

The Clear Skies polluter payoff does not aim for this five ton goal by 2008, but for 15 tons in 2018 and on—for eternity. As this chart shows, compared to a strict interpretation of what the Clean Air Act could do for our health, this rollback totals 520 percent more toxic mercury in our environment and on our dinner tables before 2018, and 300 percent more mercury after 2018.

Why would we pass this risk on to our children? I have to believe that no compassionate parent- or grandparent-to-be would knowingly do that.

EPA has thoroughly studied the mercury threat and devised an adequate health threshold—which has been supported by the NAS. The agency must follow through with the law of the land and cut mercury emissions from utilities now. In fact, this administration does not have the authority to do any less. We in Congress must not and cannot in good conscience give them that authority through the Clear Skies rollback.

If any of my colleagues doubt the potential benefits of the current Clean Air Act, I suggest they ask this administration for its long overdue economic analysis of today's best technologies—what the Act would require utilities to install.

My colleagues should know that they won't get an honest, fair, or timely re-

sponse, because that response would show that, by comparison, Clear Skies is just a license to keep sending uncontrolled mercury into our air.

It is hard for me to grasp why any administration would want to keep Congress and the public in the dark about the real benefits of the Clean Air Act. Could it be that the administration wants to distort the perceived benefits of any proposed changes?

To make matters worse, in a recent hearing in the Environment and Public Works Committee, an official from the Council of Economic Advisors suggested that the administration now wants Congress to modify the mercury cap in their air pollution giveaway to make it even less protective.

Instead of capping mercury at twenty-six tons in 2010, the administration would like us to consider a cap as high as 46 tons.

This is an outrage. Utilities today emit about 48 tons of toxic mercury every year. So the modified Clear Skies cap would mean only more inaction.

Candidate George W. Bush started with a four-pollutant bill, then dropped carbon in 2001 to get to three pollutants. Now, his administration is more or less admitting they support merely a 2-pollutant bill. Is that what they consider progress?

Why on earth would we allow them to go forward with this plan?

The scientific evidence about the dangers of mercury exposure mounts annually. The technologies exist today to dramatically reduce emissions and the associated risk. To do otherwise abdicates the administration's and our responsibility to protect public health.

We have a vital choice to make in Congress this year. Either we uphold the law as written in the Clean Air Act or we shut our eyes while the pollution and damage to our health and environment goes on.

The delays and distortion must stop. This in not the 1950s, as much as the administration would like it to be. I have no doubt there will be misguided efforts to stall the mercury standards, which are already late. I promise that I will keep a watchful eye. But I urge all mothers and fathers to pay heed as well—your children's and grandchildren's health hangs in the balance.

I have my own health advisory to post on the walls of Congress today: The administration appears less interested in protecting mothers and children from mercury poisoning, and more interested in protecting the polluters' bottom line. This may explain why they are trying to replace current law with Clear Skies.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent my remarks be as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### NOMINATION OF WILLIAM PRYOR

Mr. HATCH. Mr. President, I rise in support of the nomination of William

Pryor to the Eleventh Circuit Court of Appeals. Mr. Pryor was No. 1 in his class at Tulane University Law School. He is a magna cum laude of Tulane University School of Law where he was editor and chief of the Tulane Law Review, something that very few lawyers have the privilege of saying. He then clerked for Judge John Minor Wisdom for the Fifth U.S. Circuit Court of Appeals, a civil rights legend who helped implement desegregation in the South.

While working at two of Alabama's top private law firms, he was the adjunct professor of law at Samford University Cumberland School of Law. In 1995, then-Attorney General JEFF SESSIONS, current Senator from Alabama, hired him as Deputy Attorney General, and in 1997 he was appointed to serve out Senator SESSIONS' term.

In 1998, Alabamians elected General Pryor to this position. He was re-elected in 2002 with the remarkable 59 percent of the vote.

Let me share some of the letters that prominent Democrats have written about General Pryor. Joe Reed, chairman of the Alabama Democratic Conference, which is the State's African-American caucus, writes that General Pryor "will uphold the law without fear or favor. I believe all races and colors will get a fair shake when their cases come before him . . . I am a member of the Democratic National Committee and, of course, General Pryor is a Republican, but these are only party labels. I am persuaded that in General Pryor's eyes, Justice has only one label—Justice!"

Judge Sue Bell Cobb, who sits on the Alabama Court of Criminal Appeals, stated:

I write, not only as the only statewide Democrat to be elected in 2000, not only as a member of the Court which reviews the greatest portion of General Pryor's work, but also as a child advocate who has labored shoulder to shoulder with General Pryor in the political arena on behalf of Alabama's children. It is for these reasons and more that I am indeed honored to recommend General Pryor for nomination to the 11th Circuit Court of Appeals.

And Congressman ARTUR DAVIS encouraged President Bush to nominate General Pryor, declaring his belief that "Alabama will be proud of his service."

I will submit copies of these letters for the RECORD, along with copies of the other many letters from Democrats and Republicans, men and women, and members of Africa-American, Jewish, and Christian communities who support Bill Pryor's nomination.

It is fundamental that a State attorney general has the obligation to represent and defend the laws and interests of this State. General Pryor has fulfilled this responsibility admirably by repeatedly defending the public first and the laws and policies enacted by the Alabama legislature. But one of the reasons for the broad spectrum of support for General Pryor is his demonstrated ability to set aside his personal views and follow the law. As you will undoubtedly hear during the

course of the debate on his nomination, General Pryor is no shrinking violet. He has been open and honest about his personal beliefs, which is what voters expect from the persons whom they elect to represent them. Yet General Pryor has shown again and again that when the law conflicts with his personal and political beliefs, he follows the law.

For example, in 1997, the Alabama legislature enacted a ban on partial birth abortion that could have been interpreted to prohibit abortions before viability. General Pryor is avowedly pro-life, and has strongly criticized *Roe v. Wade*, so one might very well have expected General Pryor to vigorously enforce the statute. Instead, he instructed law enforcement officials to enforce the law only insofar as it was consistent with the Supreme Court's precedents of *Casey* and *Stenberg v. Carhart*—despite pressure from many Republicans to enforce broader language in the act.

Here's another example: I am sure that we will hear General Pryor's call for modification or repeal of section 5 of the Voting Rights Act, which requires Department of Justice preclearance. By the way, General Pryor is not alone in his opinion of section 5; the Democratic Attorney General of Georgia, Thurbert Baker, has called section 5 an "extraordinary transgression of the normal prerogatives of the states." Despite his opinion that section 5 is flawed, General Pryor successfully defended before the Supreme Court several majority-minority voting districts approved under section 5 from a challenge by a group of white Alabama voters. He also issued an opinion that the use of stickers to replace one candidate's name with another on a ballot required preclearance under section 5. In other words, he upheld a law that he thinks is legally flawed and politically flawed. In other words, this man will abide by the law in spite of his personal beliefs.

Yet another example involves General Pryor's interpretation of the First Amendment's Establishment Clause. In an effort to defeat challenges to school prayer and the display of the Ten Commandments in the Alabama Supreme Court, both the Governor and the Chief Justice urged General Pryor to argue that the Bill of Rights does not apply to the States. General Pryor refused, despite his own deeply held Catholic faith and personal support for both of these issues.

And here's my final example: General Pryor supported the right of teachers to serve as state legislators, despite intense pressure from his own party, because he believed that the Alabama Constitution allowed them to do so. This man follows the law, regardless of his personal beliefs. That is all you can ask of a judicial official and of somebody who is nominated to a Circuit Court of Appeals in this country.

These examples, and I can give others, aptly illustrate why General Pryor's nomination enjoys broad bipar-

tisan support from persons like former Democratic Alabama Attorney General Bill Baxley. He observed of General Pryor:

In every difficult decision he has made, his actions were supported by his interpretation of the law, without race, gender, age, political power, wealth, community standing, or any other competing interest affecting judgment.

That is pretty high praise coming from a Leading Democrat, one of his predecessors.

Mr. Baxley continued,

I often disagree, politically, with Bill Pryor. This does not prevent me from making this recommendation because we need fair minded, intelligent, industrious men and women, possessed of impeccable integrity on the Eleventh Circuit. Bill Pryor has these qualities in abundance. . . . There is no better choice for this vacancy.

During the course of this debate, we will hear many things about Bill Pryor. We will hear many one-sided half-truths perpetuated by the usual liberal interest groups who will stop at nothing to defeat President Bush's judicial nominees. I want to make sure that this debate is about fairness, and about telling the full story of Bill Pryor's record.

We will hear that General Pryor is devout pro life Catholic who has criticized *Roe v. Wade*, but the rest of the story is that many prominent pro-choice Democrats, such as Justice Ruth Bader Ginsburg, Archibald Cox and former Stanford Dean John Hart Ely have also criticized *roe* without anyone questioning their recognition of it as binding Supreme Court precedent.

We will hear claims that General Pryor is against the disabled and elderly, but the real story is that General Pryor has done his duty as Attorney General to defend his State's budget from costly lawsuits. Other state attorneys general, including respected Democrats like Bob Butterworth of Florida and now Senator MARK PRYOR of Arkansas, have taken the same positions as General Pryor in defending their States. While the Supreme Court agreed with the attorneys general in these cases that the Eleventh Amendment protects States from monetary damages in Federal court, these rulings did not affect—and General Pryor did not seek to weaken—other important methods of redressing discrimination, like actions for monetary damages under state law, injunctive relief, or back pay.

We will hear claims that General Pryor's criticisms of Section 5 of the Voting Rights Act indicate a lack of commitment to civil rights. That is pure and simple, unmitigated bunk. But the real story is that General Pryor has a solid record of commitment to civil rights, which includes defending majority-minority voting districts, leading the battle to abolish the Alabama Constitution's prohibition on interracial marriage, and working with the Clinton Administration's Justice

Department to prosecute the former Ku Klux Klansmen who perpetrated the bombing of Birmingham's 16th Street Baptist Church, which resulted in the deaths of four little girls in 1963.

We will no doubt hear other claims during the course of this debate distorting General Pryor's record or presenting only partial truths. I urge my colleagues to judge this nominee on his record, not on the distortions we too often hear about President Bush's nominees. He will make a fine addition to the Eleventh Circuit.

I ask unanimous consent that the letters to which I have referred be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

WILLIAM H. PRYOR, JR. TO BE UNITED STATES  
CIRCUIT JUDGE FOR THE ELEVENTH CIRCUIT

LETTERS OF SUPPORT

ALABAMA DEMOCRATIC CONFERENCE,  
*Montgomery, AL, January 27, 2003.*

THE PRESIDENT,  
*The White House,*  
*Washington, DC.*

DEAR MR. PRESIDENT: Through the news media, it has come to my attention that you now have under consideration Attorney General Bill Pryor for appointment as Circuit Judge to the United States 11th Circuit Court of Appeals, of which Alabama is a part. I take this unusual opportunity to urge you to appoint him.

Attorney General Pryor will make a first-class Judge because he is a first-class lawyer and is a first-class public official. He is a person, in my opinion, who will uphold the law without fear or favor. I believe all races and colors will get a fair shake when their cases come before him. As Attorney General for Alabama during the past six (6) years, he has been fair to all people.

For your information, I am a member of the Democratic National Committee and, of course, Mr. Pryor is Republican, but these are only party labels. I am persuaded that in Mr. Pryor's eyes, Justice has only one label—Justice.

I am satisfied that if you appoint Mr. Pryor to the Bench, and he is confirmed by the Senate, he will be a credit to the Judiciary and will be a guardian for justice. I urge you to appoint Mr. Pryor to this important court.

Sincerely,

JOE L. REED,  
*Chairman.*

COURT OF CRIMINAL APPEALS,  
STATE OF ALABAMA,  
*Montgomery, AL, January 21, 2003.*

Hon. GEORGE W. BUSH,  
*The White House,*  
*Washington, DC.*

DEAR MR. PRESIDENT: I have had the good fortune to recommend a variety of people for a variety of positions. Never have I been more honored or confident about a recommendation than I am as I write on behalf of my dear friend and Alabama Attorney General, Bill Pryor.

In November of 2000, both you and I were on the ballot. As I stood for reelection for my second term on the Alabama Court of Criminal Appeals, I became the only statewide Democrat to survive the 2000 election. Hence, I write, not only as the only statewide Democrat to be elected in 2000, not only as a member of the Court which reviews the greatest portion of General Pryor's work, but also as a child advocate who has labored

shoulder to shoulder with General Pryor in the political arena on behalf of Alabama's children. It is for these reasons and more that I am indeed honored to recommend General Pryor for nomination to the 11th Circuit Court of Appeals.

Bill Pryor is an outstanding attorney general and is one of the most righteous elected officials in this state. He possesses two of the most important attributes of a judge; unquestionable integrity and a strong internal moral compass. Whether he is reviewing hundreds of appellate briefs to ensure the quality of the work his assistants submit to this court, whether he is preparing to argue one of my cases to the United States Supreme Court. Whether he is using his considerable influence to encourage Alabama legislators to make children a top priority, or whether he is in his weekly tutoring session with an "at-risk" child, Bill Pryor is proving that he is a true public servant.

Bill Pryor is exceedingly bright, and a lawyer's lawyer. He is as dedicated to the "Rule of Law" as anyone I know. I have never known another attorney general who loved being the "people's lawyer" more than Bill Pryor. Though we may disagree on an issue, I am always confident that his position is the product of complete intellectual honesty. He loves the mental challenge presented by a complex case, yet he never fails to remember that each case impacts people's lives.

A sportscaster once said about a former Atlanta Braves player, Terry Pendleton, "[H]e does the right thing, because it is the right thing to do." That, Mr. President, perfectly describes Bill Pryor. Hence, it is my profound honor to urge you to nominate a great Alabamian, General Bill Pryor, to the 11th Circuit Court of Appeals.

I would be honored to assist you in any way in making General Pryor's nomination and confirmation a reality. With best regards, I remain,

Most Sincerely,

SUE BELL COBB,  
Judge.

CONGRESS OF THE UNITED STATES,  
HOUSE OF REPRESENTATIVES,  
Washington, DC, January 10, 2003.

Hon. JEFF SESSIONS,  
U.S. Senate,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR SESSIONS: Thank you for all of your kindness during the transition period. You and the rest of the Alabama Delegation have made me feel very welcome.

As you know, several pending vacancies on the Alabama federal bench are attracting attention back home. I understand that the President may be considering Attorney General Bill Pryor for a seat on the Eleventh Circuit. I have the utmost respect for my friend Attorney General Pryor and I believe if he is selected, Alabama will be proud of his service.

In the near future, as openings occur on the District Court, I encourage you to view this as an opportunity to diversify the federal bench. Unfortunately only two African Americans have ever served as federal district judges in Alabama. I believe that a review of the most qualified judicial candidates will inevitably lead to the inclusion of black attorneys. I strongly encourage you to consider recommending for nomination several outstanding black attorneys who have distinguished themselves. I know you would agree that Alabama deserves a federal bench that looks like Alabama.

Thank you very much for your attention to this matter. I look forward to working together over the coming months and years.

Best wishes,

ARTUR DAVIS,  
Member of Congress.

BAXLEY, DILLARD, DAUPHIN &  
MCKNIGHT, ATTORNEYS AT LAW,  
Birmingham, AL, April 8, 2003.

Hon. JEFF SESSIONS,  
Russell Senate Office Building,  
Washington, DC.

DEAR SENATOR SESSIONS: Media reports confirm that Alabama's Attorney General, Bill Pryor, has been nominated to fill the vacancy which now exists on the Eleventh Circuit.

As you well know, I too am a former Attorney General of our great state. I therefore feel comfortable assessing Bill Pryor's service in that elected office, as well as his fitness to serve the United States as a Circuit Judge. As a Democrat, I am certain I have a more unbiased frame of reference than many. As a lawyer with a diverse practice in Alabama—one which has seen me aligned with him on some occasions and against him on others—I have a better basis than most for gauging his character, fitness and ability.

Bill Pryor is a completely independent man of unwavering convictions. He courageously takes positions dictated by his conscience and does so based upon a truly intellectual sense of right and wrong. In this regard, his willingness to be guided by pure interpretations of the law superbly qualifies him for the federal bench. He has never, to my knowledge, bowed to any pressure from constituents or special interest groups. In every difficult decision he has made, his actions were supported by his interpretation of the law, without race, gender, age, political power, wealth, community standing, or any other competing interest affecting his judgment. This is a rare accomplishment, and the core reason for this, my highest and best recommendation.

I often disagree, politically, with Bill Pryor. This does not prevent me from making this recommendation because we need fair minded, intelligent, industrious men and women, possessed of impeccable integrity, on the Eleventh Circuit. Bill Pryor has these qualities in abundance. I am certain he will be guided completely by his conscience and afford a balanced analysis to every case before him, without unfair advantage to any litigant. There is no better choice for this vacancy.

Respectfully yours,

WILLIAM J. BAXLEY.

DEPARTMENT OF LAW,  
STATE OF GEORGIA,  
March 31, 2003.

Hon. RICHARD SHELBY,  
U.S. Senate, Hart Senate Office Building,  
Washington, DC.

Hon. JEFF SESSIONS,  
U.S. Senate, Russell Senate Office Building,  
Washington, DC.

DEAR SENATORS: I have had the great pleasure of knowing and working with Bill Pryor over the past five years. Through the National Association of Attorneys General, Bill and I have worked together on matters of mutual concern to Georgia and Alabama. During that time, Bill has distinguished himself time and again with the legal acumen that he brings to issues of national or regional concern as well as with his commitment to furthering the prospects of good and responsive government.

During its tenure as Attorney General, Bill has made combating white-collar crime and public corruption one of the centerpieces of his service to the people of Alabama. He

joined the efforts of Attorneys General around the country in fighting the rising tide of identity theft, pushing through legislation in the Alabama legislature making identity theft a felony in Alabama. Bill has fought to keep law enforcement in Alabama armed with appropriate laws to protect Alabama's citizens, pushing for tough money laundering provisions and stiff penalties for trafficking in date rape drugs.

Time and again as Attorney General, Bill has taken on public corruption cases in Alabama, regardless of how well-connected the defendant may be, to ensure that the public trust is upheld and the public's confidence in government is well-founded. He has worked with industry groups and the Better Business Bureau to crack down on unscrupulous contractors who victimized many of Alabama's more vulnerable citizens.

From the time that he clerked with the late Judge Wisdom of the 5th Circuit to the present, though, the most critical asset that Bill Pryor has brought to the practice of law is his zeal to do what he thinks is right. He has always done what he thought was best for the people of Alabama. Recognizing a wrong that had gone on far too long, he took the opportunity of his inaugural address to call on an end to the ban on inter-racial marriages in Alabama law. Concerned about at-risk kids in Alabama schools, he formed Mentor Alabama, a program designed to pair volunteer mentors with students who needed a role model and an attentive ear to the problems facing them on a daily basis.

These are just a few of the qualities that I believe will make Bill Pryor an excellent candidate for a slot on the 11th Circuit Court of Appeals. My only regret is that I will no longer have Bill as a fellow Attorney General fighting for what is right, but I know that his work on the bench will continue to serve as an example of how the public trust should be upheld.

Sincerely,

THURBERT E. BAKER.

STATE OF ALABAMA,  
HOUSE OF REPRESENTATIVES,  
Montgomery, AL, June 5, 2003.

Hon. ORRIN G. HATCH,  
Chairman, Committee on the Judiciary, U.S. Senate, Hart Office Building, Washington, DC.

Hon. PATRICK J. LEAHY,  
Ranking Member, Committee on the Judiciary, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SIRS: Please accept this as my full support and endorsement of Alabama's Attorney General Bill Pryor to the United States Court of Appeals for the 11th Circuit.

I am a black member of the Alabama House of Representatives having served for 28 years. During my time of service in the Alabama House of Representatives I have led most of the fights for civil rights of blacks, women, lesbians and gays and other minorities.

Consider Bill Pryor as a moderate on the race issue:

1. From 1998 to 2000, Bill Pryor sided with the NAACP against a white Republican lawsuit that challenged the districts for the Legislature. Pryor fought the case all the way to the U.S. Supreme Court and won a unanimous ruling in *Sinkfield v. Kelley*, 531 U.S. 28 (2000). The lawsuit was filed by Attorney Mark Montiel, a white Republican, and the 3-judge district court ruled 2 to 1 in favor of Montiel. Two Republicans (Cox and Albritton) ruled in favor of Montiel while Judge Myron Thompson (a black Democrat) agreed with Pryor that Montiel's white clients had no standing to challenge black districts in which the whites did not live.

2. In 2001 and 2002, Bill Pryor sided with the Legislature when it redrew districts for Congress, the Legislature, and State Board of Education. Mark Montiel filed lawsuits in federal court (Montiel v. Davis) challenging the black districts as racial gerrymanders. Pryor won every lawsuit. Pryor came under heavy pressure from other white Republicans in Alabama for fighting to protect black Legislative seats.

3. Bill Pryor worked with U.S. Attorney Doug Jones to prosecute KKK murderers Blanton and Cherry for the September 14, 1963, bombing of Sixteenth Street Baptist Church that killed four little girls. Bill Pryor personally argued to uphold Blanton's conviction before the Alabama Court of Criminal Appeals on May 20, 2003.

4. Bill Pryor drafted the law (Ala. Code §12-25-2(a)(2)) that created the Alabama Sentencing Commission with the stated purpose of ending racial disparities in criminal punishments.

5. In 2000, Bill Pryor started Mentor Alabama—a program to recruit positive adult role models for thousands of at-risk youth which were 99% black. For the last three years, Bill Pryor has worked every week as a reading tutor for black children in a Montgomery public school.

6. In 2002, I introduced a bill in the Alabama Legislature to amend the Alabama Constitution repealing Alabama's racist ban on interracial marriage. Every prominent white political leader in Alabama (both Republican and Democrat) opposed my bill or remained silent except Bill Pryor who openly and publicly asked the white and black citizens of Alabama to vote and repeal such racist law. It was passed with a slim majority among the voters and Bill Pryor later successfully defended that repeal when the leader of a racist group called the "Confederate Heritage" sued the State to challenge it.

7. I sponsored HB534 this Legislative Session establishing cross burning as a felony. Said bill passed the Alabama House of Representatives on May 15th 2003. That bill was written by Bill Pryor and he was the only white leader in Alabama that openly and publicly supported it.

Finally, as one of the key civil rights leaders in Alabama who has participated in basically every major civil rights demonstration in America, who has been arrested for civil rights causes on many occasions, as one who was a field staff member of Dr. Martin Luther King's SCLC, as one who has been brutally beaten by vicious police officers for participating in civil rights marches and demonstrations, as one who has had crosses burned in his front yard by the KKK and other hate groups, as one who has lived under constant threats day in and day out because of his stand fighting for the rights of blacks and other minorities, I request your swift confirmation of Bill Pryor to the 11th Circuit because of his constant efforts to help the causes of blacks in Alabama.

Thanks for your consideration.

Sincerely,

ALVIN HOLMES,  
State Representative.

HERC LEVINE,  
Birmingham, AL, June 5, 2003.

Hon. ORRIN HATCH,  
Chairman, Committee on the Judiciary, Dirksen  
Building, Washington, DC.

DEAR CHAIRMAN HATCH: As an active and proud member of the Birmingham Jewish Community, I was disappointed by the decision of the National Council of Jewish Women and the Religious Action Center of Reform Judaism to oppose the nomination of Attorney General Bill Pryor to the 11th Circuit Court of Appeals bench. While I doubt

that these groups have taken the time to sit down and talk with Attorney General Pryor, I am proud to say that he has my support and the support of many in the Alabama Jewish Community because of his personal integrity and commitment to insure that all of our citizens are treated fairly and receive equal justice under the law. He has been a true friend to the Alabama Jewish Community on many important issues.

Attorney General Pryor has a distinguished career as a public servant, practicing attorney and law professor, and is highly qualified to serve on the Federal bench. He has a well deserved reputation for fairness and competency that cuts across party lines and which has resulted in overwhelming support from Alabamians of all political parties and segments of our society. His distinguished record as Attorney General affirms my belief that he will serve with great distinction as a Federal judge.

Very truly yours,

HERC LEVINE.

#### FAIRNESS IN THE CONSIDERATION OF JUDICIAL NOMINATIONS

Mr. HATCH. Mr. President, on Wednesday the Judiciary Committee favorably reported to the full Senate the nomination of Alabama Attorney General William Pryor for the Eleventh Circuit Court of Appeals. It has been more than 6 weeks since General Pryor's confirmation hearing, and I am pleased that the full Senate will now have the opportunity to consider his nomination.

Nevertheless, we will no doubt hear over the course of this debate many allegations from some of our Democratic colleagues as to why they believe that Bill Pryor's nomination does not deserve an up or down vote by the full Senate. I want to make perfectly clear right now that there is no valid reason to delay this body's consideration of the Pryor nomination.

All we ask is that there be an up-or-down vote. Vote against him if you don't like the man personally—although there is little room to vote against him because of his record.

Despite these efforts by committee Democrats to erect a procedural roadblock to voting on the Pryor nomination in spite of fact that I had set five markups, I finally was able to have a markup on his nomination. They wanted to revive a debate over the interpretation of committee rule IV. This rule, entitled "Bringing a Matter to a Vote", was clearly intended to serve as a tool by which a determined majority of the committee could force a recalcitrant chairman to bring a matter to vote. In fact, the rule provides, "The Chairman shall entertain a non-debatable motion to bring a matter before the Committee to a vote."

Clearly, it was a rule by which you could force a chairman to have a vote. All you had to do was get a majority of the Senators on the committee with one from the minority side and you could force a chairman to call for a vote.

On Wednesday there was no motion to bring the matter before the com-

mittee to a vote. In fact, there was an objection to voting, which I overruled. Thus, on its face, rule IV was inapplicable to the Pryor nomination.

Despite claims to the contrary, there has been no inconsistency in my interpretation of this rule. First of all, I have checked with two Parliamentarians, and both said I could interpret the rule. I believe I have interpreted it correctly.

During the Clinton administration, in an effort to prevent the defeat in committee of a controversial Justice Department nominee, I was chairman and I wanted to bring the nomination to a vote. We had enough votes to defeat the nominee in committee. It would have been a 9-9 tie, and the nominee would have gone down to defeat. The Democrats then started to filibuster their own nominee. In deference to them, I chose not to exercise the inherent powers I and all committee chairmen have to bring a matter to a vote.

I have been condemned for that ever since as though I acknowledged that you should just have filibusters in the committee any time you want to. President Clinton ultimately made a recess appointment of their nominee. In retrospect, my reliance on rule IV to accomplish this was admittedly not the best course of action. I was wrong to say they could filibuster. But I was trying to be gracious to my colleagues on the other side who clearly did not want to vote on the record defeating their nominee. Since I respected and liked the nominee himself, but not for the particular position he was nominated for, I would have supported him for any other position. And I had good reason to be against him for this position. I agreed to allow their filibuster to cause me to pull down his nomination rather than to have a vote that would have been embarrassing to him and to the Democrats. And that is why they were filibustering their own nominee. Now they cite that as the reason why I am wrong here. But there is no reason for that.

I nevertheless believed then, and I do now, that I had the power to bring that matter to a vote, and that I used the discretion of the chairman to decide not to do so. It was a matter of showing decency and kindness to my colleagues on the other side and to the nominee so he would not have a vote that defeated him in committee.

The fact of the matter is I don't believe there should be filibusters in the Judiciary Committee. We have had at least two instances now where my colleagues on the other side have tried to filibuster. In addition, the Democrats now complain they weren't given enough time to do an investigation. We have given them all kinds of time to do an investigation. Since their investigation was proving to be fruitless because they couldn't find one thing to criticize Attorney General Pryor on, they wanted to have a fishing expedition to do further investigation.